In paragraph 1 of the Office Action, claims 1-3, 5, 24-26 and 28-30 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 15-17, 1, 18 and 19, respectively of U.S. Patent No. 5,908,997 to Arnold et al. (Arnold). In paragraphs 2-3 of the Office Action, claims 1, 3, 5, 6, 9, 22 and 27-30 have been rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 5,541,354 to Farrett et al. (Farrett). In paragraph 4-5 of the Office Action, claims 2, 10, 11 and 12 have been rejected as being unpatentable over Farrett in view of U.S. Patent No. 5,949,012 to Ishii. Finally, in paragraph 6, claims 4, 7, 8, 12-21 and 23-26 have been objected to only in as much as each is dependent upon a rejected base claim. In response, the Applicants have amended claim 1 to further clarify the Applicants' invention so as to distinguish the Applicants' invention over the cited art. Additionally, the Applicants have added new claim 31 in order to further clarify the scope of the Applicants' invention. In consequence of both the amended and added claims, the Applicants respectfully submit that no new matter has been introduced into the above-identified patent application. Furthermore, the Applicants have submitted the appropriate fee under 37 C.F.R. §1.16(c) for later presentation of a dependent claim causing the total number of claims to exceed 20 claims.

With regard to the Examiner's objection under the judicially created doctrine of obviousness-type double patenting, the Applicants have amended claim 1 so as to include information exchanging means not recited in Arnold. Consequently, the Applicants respectfully submit that claims 1-3, 5, 24-26 and 28-30 in the present invention no longer are patentably indistinct from claims 1-3, 5, 15-17, 1, 18 and 19 of Arnold. Furthermore, in view of the amended claim 1, the claims of the

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present application listed above are no longer obvious over Arnold. As such, the Applicants respectfully request the withdrawal of the double patenting rejection.

Prior to addressing the Examiner's rejection on the art and the Applicants' amendments, a brief review of the Applicants' invention is appropriate. The present invention relates to an electronic musical instrument having a computer-based control system. The computer based control system can utilize a music information management system to process and produce sound and other music information from a plurality of sources. The system can derive music and other information form a variety of music information sources to enhance the performance and uses of an electronic musical keyboard. Additionally, the system can create a user-friendly environment, established by a consolidated, touch screen interface.

Advantageously, as discussed in the specification beginning on page 11, line 6 and continuing to line 11, the musical instrument system can include a modem for exchanging information with a variety of on-line sources. Through the on-line sources, the musical instrument system can obtain music information for performing a variety of functions previously available only through complicated or separate systems. It is a unique advantage of the present invention that the musical instrument system includes the information exchanging means embodied in a modem. Specifically, by providing a communications conduit between the musical instrument system and on-line sources of music information, the musical instrument system can download, or upload as the case may be, music information between the musical instrument system and the on-line source of music information. For example, if a user of the Applicants' musical instrument system desired particular MIDI files not available in the musical instrument system, but

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available on-line at a MIDI clearinghouse Web site, the user could download the desired MIDI file into the musical instrument system through a modem. Hence, the information exchanging means provides a mechanism for a user to dynamically expand the range of digital audio information available for use with the musical instrument system.

Turning now to the Examiner's rejection on the art, in paragraphs 2-3, the Examiner has rejected claims 1, 3, 5, 6, 9, 22 and 27-30 as being anticipated by Farrett. Moreover, in paragraphs 4-5, the Examiner has rejected claims 2, 10, 11 and 22 as being unpatentable over Farrett in view of Ishii. Farrett discloses a technique for manipulating a digitally sampled audio recording of a single instrument to produce the sound of a several musical instruments of the same type as the single instrument. The Farrett invention can be implemented in software and executed in a general purpose computer. As discussed in the Farrett specification, column 7, line 31 through column 8, line 14 and illustrated in Figure 5 of the same specification, the general purpose computer can include a system unit, a keyboard, a mouse and a display. Additionally, the general purpose computer can include RAM, ROM (including the BIOS) and a CD-ROM. Of course, because the Farrett invention relates to the production of audio sounds, the general purpose must have an audio card for producing audible representations of the digital audio signals manipulated by the Farrett technique.

Notably, the general purpose computer used by the Farrett invention can include an I/O controller for enabling communications over a network to other similarly configured general purpose computers. More particularly, the general purpose computer described by Farrett can include a Token Ring Adapter for connecting the general purpose computer to a local area network. Farrett does not,

however, teach information exchanging means for exchanging music information between a musical instrument system and an on-line source of music information.

In fact, Farrett does not teach the exchanging of any on-line information. Rather, at best, Farrett discloses communications between general purpose computers in a local area network. Farrett does not specify components necessary for exchanging information between a general purpose computer and a remotely positioned on-line source of information. Such an exchange would require either a modem for connecting the general purpose computer to a remote network, or a router or gateway to connect the local area network, for example a Token Ring network, to a remote network or computer. Farrett, however, neither mentions a modem nor specifies any communication means suitable for connecting the general purpose computer to an on-line source of information.

Ishii fails to cure the deficiencies of Farrett. Ishii relates to an electronic musical instrument and a music performance information inputting apparatus capable of entering various types of music performance information. The music performance information inputting apparatus can include a touch panel, music performance information producing means and transmitting means. As discussed in column 19, lines 54-58, a communications interface corresponds to the transmitting means. The communications interface can receive serial data inputted from an external input terminal and can convert the serial data to parallel data. As discussed in column 18, lines 45-50, the external input terminal corresponds to a terminal for inputting music performance information produced by an external apparatus.

In addition, as discussed in column 19, line 63 through column 20, line 4 the communications interface further can receive parallel music performance data from

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the music performance information producing means and convert the same into serial data. Subsequently, the communications interface can transmit the serial data to an external output terminal. Like the external input terminal, the external output terminal is employed to as to externally output the music performance information produced in the electronic musical instrument.

Notably, the communications interface cannot exchange music information between an electronic music system and an on-line source of music information. In fact, Ishii does not mention the use of any communications mechanism for communicatively connecting the electronic music instrument to an on-line source of data. Thus, neither Ishii, Farrett, nor any combination thereof teach or suggest the use of information exchanging means for exchanging music information between an electronic music system and an on-line source of music information.

The Applicants' have amended claim 1 and added claim 31 to emphasize the inclusion with the electronic music system of information exchanging means for exchanging music information between the electronic music system and an on-line source of music information. Specifically, in claim 31, the Applicants have clarified that the information exchanging means can be a modem. Support for the Applicants' amendments can be found in the Applicants' specification page 11, lines 6-11.

In view of the foregoing, the Applicants observe that claim 1 is neither anticipated by Farrett, nor unpatentable over Farrett in view of Ishii as neither Farrett nor Ishii teach information exchanging means for exchanging music information between an electronic music system and an on-line source of music information. Additionally, because each of dependent claims 2-31 depend on an allowable independent claim 1, claims 2-31 further are neither anticipated by Farrett

nor unpatentable over Farrett in view of Ishii. As such, withdrawal of the §102(a) and §103(a) rejections is respectfully requested. All claims should now be in condition for allowance. Indication of allowableness is respectfully requested. Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

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Steven M. Greenberg
Registration No. 44,725
Joseph W. Bain
Registration No. 34,290
QUARLES & BRADY LLP
222 Lakeview Avenue - Suite 400
P. O. Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000

Docket No. 6145-55

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